REPORT

DATE: May 5, 2005

TO: Community, Economic and Human Development Committee

FROM: Tonya Gorham, Government Affairs Analyst
Phone: (213)236-1988 Email: Gorham@scag.ca.gov

SUBJECT: Senate Housing and Transportation Package

EXECUTIVE DIRECTOR'S APPROVAL:

RECOMMENDED ACTION: Support in concept the Senate Transportation and Housing package of housing and transportation bills including SB 832, SB 575, SB 521 and SB 44.

SUMMARY:
On February 23, 2005 Senate President pro Tem Don Perata (D-Oakland), along with the Senate Transportation and Housing Committee Chair Tom Torlakson (D-Antioch) and the Senate Environmental Quality Committee Chair Alan Lowenthal (D-Long Beach) unveiled a package of housing and transportation legislation. The bill package includes: SB 832 (Perata/Torlakson/Lowenthal) CEQA – Infill development; SB 575 (Torlakson) Housing Development Projects; SB 521 (Torlakson) Local Planning-Transit Oriented Development; and SB 44 (Kehoe) General Plans - Air Quality Elements. The package of bills aims to combat sprawl, reduce traffic, maintain open space and farmland, and improve air quality in California.

BACKGROUND:
The package of bills is intended to make it easier to build affordable housing close to jobs and transit, while also addressing quality of life issues concerning open spaces and air quality. The overall concept of the package as a whole is supported by the Southern California Compass Growth Vision Report – *The 2% Strategy: Shared Values, Shared Future* approved in June 2004. The report highlights that the region must examine land use and transportation as two parts of one important whole. The concepts of the bill package are also supported by SCAG's 2005 Legislative Program which specifically encourages the development of state incentives to promote urban infill development and outlines SCAG's support of legislative proposals to promote an increase in and the equitable distribution of affordable housing throughout the region. Also, both the Growth Vision Report and the Legislative Program support the concepts of transit villages and mixed-use and multi-modal development.

SB 832 (Perata/Lowenthal/Torlakson) – CEQA: Infill Development
This bill would expand the current urban infill exemption under the California Environmental Quality Act (CEQA) for cities with more than 200,000 people. Existing law exempts residential projects located on infill sites and meeting certain criteria from CEQA. Currently the site of the project must not be more than 4 acres in total area and not contain more than 100 residential units. SB 832 would expand this CEQA exemption to sites up to 10 acres and with a maximum of 300 residential units in cities with more than 200,000 population. The California Association of Council of Governments has recorded a support position for this bill.

SB 575 (Torlakson/Ducheny/Dunn) – Housing Development Projects
SB 575 attempts to clarify the anti-NIMBY law relating to the approval of affordable housing projects. The bill requires a city or county to have met or exceeded its regional housing need for lower and moderate

income housing before disapproving an affordable housing development based on lack of need. Existing law requires jurisdictions to make one of the following finding to disapprove an affordable housing project: the project is not needed to meet the jurisdictions share of regional housing needs for lower or moderate income households; the project would have an adverse impact on the public health or safety; the denial is required to comply with federal or state law; the project is located on agricultural or resource preservation land that does not have adequate water or water waste facilities ; or the project is inconsistent with both the jurisdictions general plan land use and the zoning ordinance.

The co-sponsors of SB 575 include the California Apartment Association, the California Housing Council, the California Rural Legal Assistance Foundation and the Western Center for Law and Poverty. There is currently a list of more than 40 supporters of the legislation including several affordable housing advocates. To date there is no registered opposition.

SB 521 (Torlakson) Local Planning-Transit Oriented Development
The bill attempts to further the policy objective of constructing more housing close to transit stations. Specifically the bill expands the geographic scope of a transit village development district to include parcels within one mile of a transit station or contiguous parcel equal to area covered by a mile radius from the exterior of the transit's parcel. In this expansion, the bill repeals the current requirement that housing in a transit village development plan must be within a mile of the exterior of the transit stations parcel. The San Francisco Bay Area Rapid Transit District, California Transit Association and the American Planning Association California Chapter support SB 521, with registered opposition from the County of Santa Clara.

SB 44 (Kehoe) – General Plans: Air Quality Element
In 2003 the Legislature passed a law to require the Central Valley to include air quality strategies in each local agency's general plan to ensure that development patterns took into account air quality and public health. This legislation AB 170 (Reyes) was an effort to address the air pollution problems that often accompany urban and suburban sprawl. SB 44 (Kehoe) will require every county and city to adopt either an air quality amendment or amend the appropriate elements of its general plan to improve air quality. The air quality element or amendment must include a report describing local quality conditions, goals and objective that may improve air quality and feasible implementation measures. The bill if passed would require cities and counties to comply with requirements within a year of their next housing element revision after January 1, 2006. To date the City of Moreno Valley is listed in opposition to SB 44.

FISCAL IMPACT:
All work related to adopting the recommended staff action is contained within the adopted FY 04/05 budget and adopted 2005 SCAG Legislative Program and does not require the allocation of any additional financial resources. There are no costs to the agency if any or all of the above-mentioned bills are enacted.

SENATE BILL No. 832

Introduced by Senators Perata, Lowenthal, and Torlakson
(Coauthor: Assembly Member Laird)

February 22, 2005

An act to amend Section 21159.24 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 832, as introduced, Perata. CEQA: infill development.

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law exempts from CEQA a residential project located on an infill site within an urbanized area that meets specified criteria, including that the site of the project is not more than 4 acres in total area and the project does not contain more than 100 residential units.

This bill would provide an alternative to those criteria if the site is located in a city with a population of more than 200,000 persons by increasing the exempted site size to 10 acres and the maximum number of residential units to 300, respectively, as determined by a resolution of the city council.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the state should provide incentives to promote infill development and

smart growth in urban areas and should discourage urban sprawl and the resulting adverse transportation, housing, and environmental impacts.

SEC. 2. Section 21159.24 of the Public Resources Code is amended to read:

21159.24. (a) Except as provided in subdivision (b), this division does not apply to a project if all of the following criteria are met:

(1) The project is a residential project on an infill site.

(2) The project is located within an urbanized area.

(3) The project satisfies the criteria of Section 21159.21.

(4) Within five years of the date that the application for the project is deemed complete pursuant to Section 65943 of the Government Code, community-level environmental review was certified or adopted.

(5) *Either of the following criteria are met:*

(A) The site of the project is not more than four acres in total area.

(B) If the site is located in a city with a population of more than 200,000 persons, the site is not more than 10 acres in total area, and this site acreage is determined by a resolution of the city council.

(6) *Either of the followingcriteria are met:*

(A) The project does not contain more than 100 residential units.

(B) If the site is located in a city with a population of more than 200,000 persons, the project does not contain more than 300 residential units and this number of units is determined by a resolution of the city council.

(7) Either of the following criteria are met:

(A) (i) At least 10 percent of the housing is sold to families of moderate income, or not less than 10 percent of the housing is rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(ii) The project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

(B) The project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

(8) The project is within one-half mile of a major transit stop.

(9) The project does not include any single level building that exceeds 100,000 square feet.

(10) The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.

(b) Notwithstanding subdivision (a), this division shall apply to a development project that meets the criteria described in subdivision (a), if any of the following occur:

(1) There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.

(2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.

(3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.

(c) If a project satisfies the criteria described in subdivision (a), but is not exempt from this division as result of satisfying the criteria described in subdivision (b), the analysis of the environmental effects of the project in the environmental impact report or the negative declaration shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to paragraph (2) or (3) of subdivision (b).

(d) For the purposes of this section, "residential" means a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.

O

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL No. 575

Introduced by Senators Torlakson, Ducheny, and Dunn
(Coauthor: Senator Alquist)
(Coauthors: Assembly Members Jones and Lieber)

February 18, 2005

An act to amend Section 65589.5 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 575, as amended, Torlakson. Housing development projects.

The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low□, or moderate□income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

The Planning and Zoning Law also requires that in any action to enforce these provisions, if a court finds that the local agency disapproved the project or conditioned its approval without making the required findings or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment to compel compliance with these provisions within 60 days, including an award of reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, and may issue further orders to ensure that the purposes and policies of these provisions are fulfilled if its order or judgment has not been carried out within the 60□day period.

□

This bill would revise the conditions upon which a disapproval or a conditional approval of the housing development project is based. ~~It would also delete that provision that authorizes the court to issue further orders to ensure that the purposes and policies of these provisions are fulfilled and would, instead, authorize the court to vacate the decision of the local agency and direct the local agency to issue any necessary approval or permit to the applicant, as specified. The bill would also require the court to award actual damages to the plaintiff or petitioner who proposed the housingdevelopment, except as specified.~~

Vote:□□majority. Appropriation:□□no.Fiscal committee:□□no. State□mandatedocal program:□□no.

The people of the State of California do enact as follows:

SECTION 1.□Section 65589.5 of the Government Code is amended to read:

65589.5.□(a)□The Legislature finds and declares all of the following:

(1)□The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2)□California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3)□Among the consequences of those actions are discrimination against low□income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4)□Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b)□It□is the policy of the state that a local government not reject or make infeasible housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and

environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low, or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low, or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) *The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588 and is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need for very low, low-, and moderate- income housing, as determined pursuant to this article, for the planning period.*

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

~~(2)~~

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the

development unaffordable to low and moderate income households.

~~(3)~~

(4) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

~~(4) Except as provided in subparagraphs (A) and (B), the~~

(5) *The* development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

~~(A)~~ This paragraph cannot be utilized to disapprove a housing development project defined in subdivision (a) if the development project is proposed on a site that is identified as suitable or available for very low, low, or moderate income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

~~(B) If the local agency's housing element has neither been self certified pursuant to Section 65585.1 nor been determined by the department pursuant to Section 65585 to be in substantial compliance with this article based at least in part on the inadequacy of sites to accommodate the community's share of the regional housing need as determined pursuant to Section 65584, this subdivision cannot be utilized to disapprove a housing development project defined in subdivision (a) proposed for a parcel designated in any element of the general plan for residential or commercial uses.~~

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be

construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as

defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Neighborhood" means a planning area commonly identified ~~as such~~ in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of

allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low□, or moderate□income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j)□When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1)□The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2)□There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k)□If□in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low□, or moderate□income households, including farmworker housing,

without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees~~, actual damages,~~ and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees ~~or damages~~ would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may~~ vacate the decision of the local agency and direct the local agency to issue any necessary approval or permit to the applicant. The local agency shall carry out the order of the court within 30 days of its entry and, upon failure to do so, the order of the court shall for all purposes, be deemed to be the action of the local agency, unless the applicant consents to a different decision or order by the local agency.~~ *issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled.*

(*l*) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure, all or part of the record may be filed (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

O

AMENDED IN SENATE APRIL 12, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL No. 521

Introduced by Senator Torlakson

February 18, 2005

An act to amend Sections 65460.2 and 65460.4 of the Government Code, and to amend Sections 33031 and 33320.1 of, and to add Section 33032 to, the Health and Safety Code, relating to transit village plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 521, as amended, Torlakson. Local planning: transit village plans.

The Transit Village Development Planning Act of 1994 authorizes a city or county to prepare a transit village plan for a transit village development district that includes all land within not more than ¼ mile of the exterior boundary of the parcel on which is located a transit station, as defined, and addresses specified characteristics, including a neighborhood centered around a transit station and a mix of housing types, including apartments, that is planned and designed, as specified, and any 5 of demonstrable public benefits that reduce traffic congestion.

The Community Redevelopment Law specifies both the physical and economic conditions that cause blight.

This bill would require a transit village plan to include a transit station and parcels at least a portion of which are within not more than ~~a~~ ¼ mile of the exterior boundary of the parcel on which the transit station is located or parcels located in an area equal to the area encompassed by a ~~one-~~ 1/4 mile radius from the exterior boundary of the parcel on which the station is located. The bill would require a

city or county to allow "use by right" ~~on each parcel~~ within a transit village development district *established pursuant to a transit village plan adopted on or after January 1, 2006.*

The bill would, additionally, define an economic condition of blight for purposes of the Community Redevelopment Law to include the lack of high density development within a transit village development district and would specify requirements to be met by a local agency that relies on this condition to redevelop a project area that is also a transit village development district. ~~The bill would exempt this project area from the requirement that it be characterized as predominantly urbanized.~~

The bill would require the redevelopment agency to submit the proposed redevelopment plan ordinance to the California Infrastructure and Economic Development Bank for review and approval and would prohibit the bank from approving new project areas pursuant to these provisions after December 31, 2012. *The bill would exempt this project area from the requirement that it be characterized as predominantly urbanized if the California Infrastructure and Economic Development Bank makes a specified finding as part of its approval of the redevelopment plan ordinance.*

The bill would require the redevelopment agency to procure an independent study on compliance with these provisions and the effectiveness of the project area in fulfilling the intent and substance of the Transit Village Planning Development Act. The bill would require the study to be submitted to the Legislature and the California Infrastructure and Economic Development Bank by December 31, 2011.

Vote:□□majority. Appropriation:□□no.Fiscal committee:□□yes. State□mandatedocal program:□□no.

The people of the State of California do enact as follows:

SECTION 1.□Section 65460.2 of the Government Code is amended to read:

65460.2.□A city or county may prepare a transit village plan for a transit village development district that addresses the following characteristics:

(a)□A□neighborhood centered around a transit station that is planned and designed so that residents, workers, shoppers, and others find it convenient and attractive to patronize transit.

(b) A mix of housing types, including apartments.

(c) Other land uses, including a retail district oriented to the transit station and civic uses, including day care centers and libraries.

(d) Pedestrian and bicycle access to the transit station, with attractively designed and landscaped pathways.

(e) A transit system that should encourage and facilitate intermodal service, and access by modes other than single occupant vehicles.

(f) Demonstrable public benefits beyond the increase in transit usage, including any five of the following:

(1) Relief of traffic congestion.

(2) Improved air quality.

(3) Increased transit revenue yields.

(4) Increased stock of affordable housing.

(5) Redevelopment of depressed and marginal inner-city neighborhoods.

(6) Live-travel options for transit-needy groups.

(7) Promotion of infill development and preservation of natural resources.

(8) Promotion of a safe, attractive, pedestrian-friendly environment around transit stations.

(9) Reduction of the need for additional travel by providing for the sale of goods and services at transit stations.

(10) Promotion of job opportunities.

(11) Improved cost-effectiveness through the use of the existing infrastructure.

(12) Increased sales and property tax revenue.

(13) Reduction in energy consumption.

(g) Sites where a density bonus of at least 25 percent may be granted pursuant to specified performance standards.

(h) Other provisions that may be necessary, based on the report prepared pursuant to subdivision (b) of former Section 14045, as enacted by Section 3 of Chapter 1304 of the Statutes of 1990.

~~(i) Within the transit village development district, the city or county shall allow "use by right" on each parcel, as defined in subdivision (i) of Section 65583.2.~~

(i) Within a transit village development district established pursuant to a transit village plan adopted on or after January 1,

2006, the city and county shall allow "use by right," as defined in subdivision (i) of Section 65583.2, for multifamily residential uses on each parcel designated for multifamily residential development.

SEC. 2. Section 65460.4 of the Government Code is amended to read:

65460.4. A transit village development district shall include a transit station and either of the following:

(a) Any contiguous or noncontiguous parcels, at least a portion of which is located within one-quarter mile of the exterior boundary of the parcel on which the station is located.

(b) Any contiguous parcels located in an area equal to the area encompassed by a one-quarter-mile radius from the exterior boundary of the parcel on which the station is located.

SEC. 3. Section 33031 of the Health and Safety Code is amended to read:

33031. (a) This subdivision describes physical conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate utilities, or other similar factors.

(2) Factors that prevent or substantially hinder the economically viable use or capacity of buildings or lots. This condition can be caused by a substandard design, inadequate size given present standards and market conditions, lack of parking, or other similar factors.

(3) Adjacent or nearby uses that are incompatible with each other and which prevent the economic development of those parcels or other portions of the project area.

(4) The existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership.

(b) This subdivision describes economic conditions that cause blight:

(1) Depreciated or stagnant property values or impaired investments, including, but not necessarily limited to, those properties containing hazardous wastes that require the use of

agency authority as specified in Article 12.5 (commencing with Section 33459).

(2) Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities.

(3) A lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.

(4) Residential overcrowding or an excess of bars, liquor stores, or other businesses that cater exclusively to adults, that has led to problems of public safety and welfare.

(5) A high crime rate that constitutes a serious threat to the public safety and welfare.

(6) Lack of high density development within a transit village development district adopted pursuant to Article 8.5 (commencing with Section 65460) of Chapter 3 of Title 1 of Division 7 of the Government Code.

SEC. 4. Section 33032 is added to the Health and Safety Code, to read:

33032. If an agency seeks pursuant to subdivision (b) of Section 33031 to demonstrate the economic conditions that cause blight by relying on the lack of high density development within a transit village development district pursuant to paragraph (6) of that subdivision, all of the following requirements shall be met:

(a) The project area shall include a rail transit service provided by one of the following agencies:

(1) Caltrain, as defined in Section 99602 of the Public Utilities Code.

(2) Capitol Corridor Joint Powers Authority.

(3) Los Angeles County Metropolitan Transit District.

(4) North San Diego County Transit District.

(5) San Diego Metropolitan Transit Development Board and its subsidiaries.

(6) Sacramento Regional Transit District.

(7) San Francisco Bay Area Rapid Transit District.

(8) San Francisco Municipal Railway.

(9) San Joaquin Regional Rail Commission.

(10) Santa Clara Valley Transportation Agency.

(11) Southern California Regional Rail Authority.

(b) The project area shall include a rail transit station and either of the following:

(1) Any contiguous or noncontiguous parcels, at least a portion of which are located within one-quarter mile of the exterior boundary of the parcel on which the station is located.

(2) Any contiguous parcels located in an area equal to the area encompassed by a one-quarter-mile radius from the exterior boundary of the parcel on which the station is located.

(c) The community shall adopt a transit village plan pursuant to the Transit Village Development Planning Act of 1994, Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7 of the Government Code, that covers the same area, and the transit village plan shall permit a significantly higher density of development than the development that currently exists in the area.

(d) Notwithstanding any other section, *if the California Infrastructure and Economic Development Bank finds, as part of its approval pursuant to subdivision (f), that the property within the transit village development district cannot reasonably be expected to be developed for the uses and at the densities established by the transit village plan by private enterprise or government action, or both, without redevelopment,* a project area subject to this section is not required to be characterized as predominantly urbanized, as that term is defined in subdivision (b) of Section 33320.1.

(e) The regional transit provider that operates the rail transit station shall adopt a resolution approving the proposed project area.

(f) (1) The agency shall submit the proposed ordinance to the California Infrastructure and Economic Development Bank for review and approval. The bank may circulate the proposed ordinance to other state agencies, including, but not limited to, the Department of Finance, the Department of Housing and Community Development, and the Office of Planning and Research, and solicit their comments and recommendations. After considering the comments and recommendations of other state agencies, the bank shall take one of the following actions:

(A) Approve the proposed redevelopment plan if the bank makes a finding, based on substantial evidence in the record, that the proposed redevelopment plan is consistent with both the

requirements of this section, Section 33030, and with the state planning priorities in Section 65041.1 of the Government Code.

(B) Return the proposed redevelopment plan to the agency with specific recommendations for changes that would allow the bank to approve the plan.

(2) The bank shall have 30 days from the receipt of the proposed redevelopment plan to act pursuant to paragraph (1). If the bank does not act within 30 days, the proposed redevelopment plan shall be deemed approved.

(3) The bank shall not approve any new project area pursuant to this section after December 31, 2012.

~~(g) The agency may not utilize paragraph (1) of subdivision (g) of Section 33334.1 with regard to the project area.~~

(g) (1) The agency shall expend, within the project area, all funds that are derived from the project area and deposited in the Low and Moderate Income Housing Fund.

(2) The agency shall meet any replacement housing obligation pursuant to Section 33413 within the project area.

(h) For the purposes of pooling housing funds pursuant to Section 33334.25, the agency may act as a "receiving entity" ~~but may only transfer housing funds from the project area with the approval of the board of directors of the regional transit provider upon certification that the pooled funds will be used in another project area created pursuant to this section that includes a rail transit station operated by the same regional transit provider.~~.

(i) The agency shall procure an independent study to document compliance with this section and the effectiveness of the project area in fulfilling the intent and substance of the Transit Village Planning Development Act. Notwithstanding Section 7550.5 of the Government Code, the study shall be presented to the Legislature and the California Infrastructure and Economic Development Bank by December 31, 2011.

SEC. 5. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. (a) "Project area" means, except as provided in Section 33032, 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area:

(1) Has been or is developed for urban uses; or

(2) Is characterized by the condition described in paragraph (4) of subdivision (a) of Section 33031; or

(3) Is an integral part of one or more areas developed for urban uses which are surrounded or substantially surrounded by parcels which have been or are developed for urban uses. Parcels separated by only an improved right of way shall be deemed adjacent for the purpose of this subdivision.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law.

(d) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

O

AMENDED IN SENATE FEBRUARY 23, 2005

SENATE BILL No. 44

Introduced by Senator Kehoe

January 4, 2005

An act to amend Section 65302.1 of the Government Code, relating to general plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, Kehoe. General plans: air quality element.

Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality.

This bill would make *a* legislative ~~findings and declarations regarding~~ *finding that* air pollution ~~problems~~ *is a serious problem* in this state. The bill additionally would require the legislative body of each city and county, ~~other than~~ *including* those in the San Joaquin Valley Air Pollution Control District, to amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies to improve air quality no later than one year from the date specified for the next revision of its housing element.

The bill would also require each city and county, at least 45 days prior to the adoption of *an* air quality ~~amendments to~~ *element or the amendment of* a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review and comment, as specified. By increasing the duties of local public officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 65302.1 of the Government Code is amended to read:

65302.1. (a) The Legislature finds and declares ~~all of the following:~~

~~(1)~~ *that* California has a serious air pollution problem that ~~will take~~ *is the result of many factors, including pollution from both mobile and stationary sources. Solving this problem requires* the cooperation of land use and transportation planning agencies, transit operators, the *business and* development ~~community;~~ *communities,* air quality management districts, air pollution control districts, and the public ~~to solve~~.

~~(2) The solution to the problem requires changes in the way we have traditionally built our communities and constructed the transportation systems. It involves a fundamental shift in priorities from emphasis on mobility for the occupants of private automobiles to a multimodal system that more efficiently uses scarce resources. It requires a change in attitude from the public to support development patterns and transportation systems different from the status quo.~~

~~(3) Air quality guidelines are recommended strategies that do, when it is feasible, all of the following:~~

~~(A) Determine and mitigate project level and cumulative air quality impacts under the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(B) Integrate land use plans, transportation plans, and air quality plans.~~

~~(C) Plan land uses in ways that support a multimodal transportation system.~~

~~(D) Local action to support programs that reduce congestion and vehicle trips.~~

~~(E) Plan land uses to minimize exposure to toxic air pollutant emissions from industrial and other sources.~~

~~(F) Reduce particulate matter emissions from sources under local jurisdiction.~~

~~(G) Support district and public utility programs to reduce emissions from energy consumption and area sources.~~

~~(4) The benefits of including air quality concerns within local general plans include, but are not limited to, all of the following:~~

~~(A) Lower infrastructure costs.~~

~~(B) Lower public service costs.~~

~~(C) More efficient transit service.~~

~~(D) Lower costs for comprehensive planning.~~

~~(E) Streamlining of the permit process.~~

~~(F) Improved mobility for the elderly and children.~~

(b) The legislative body of each city and county shall *either adopt an air quality element as part of its general plan or* amend the appropriate elements of its general plan, which may include, but are not limited to, the required elements dealing with land use, circulation, housing, conservation, and open space, to include data and ~~analysis,~~ *analyses,* goals, policies, and objectives, and feasible implementation strategies to improve air quality.

(c) The adoption of ~~air quality amendments to~~ *an air quality element or the amendment of* a general plan to comply with the requirements of subdivision ~~(d)~~ *(b)* shall include all of the following:

(1) A report describing local air quality conditions including air quality monitoring data, emission inventories, lists of significant source categories, attainment status and designations, and applicable state and federal air quality plans and

transportation plans. *This report shall include a summary of local, district, state, and federal policies, programs, and regulations that may improve air quality in the city or county.*

~~(2) A summary of local, district, state, and federal policies, programs, and regulations that may improve air quality in the city or county.~~

~~(3)~~

(2) A comprehensive set of goals, policies, and objectives that ~~may improve air quality consistent with the strategies listed in paragraph (3) of subdivision (a).~~ *may improve air quality.*

~~(4)~~

(3) A set of feasible implementation measures designed to carry out those goals, policies, and objectives.

(d) At least 45 days prior to the adoption of ~~air quality amendments to~~ *an air quality element or the amendment of* a general plan pursuant to this section, each city and county shall send a copy of its draft document to the air quality management district or air pollution control district in which the city or county is located. The district may review the draft *elements or draft* amendments to determine whether they may improve air quality consistent with the strategies listed in paragraph (3) of subdivision (a). Within 30 days of receiving the draft *elements or draft* amendments, the district shall send any comments and advice to the city or county. The legislative body of the city or county shall consider the district's comments and advice prior to the final adoption of air quality amendments to the general plan. If the district's comments and advice are not available by the time scheduled for the final adoption of ~~air quality~~ *the air quality element or* amendments to the general plan, the legislative body of the city or county may act without them. The district's comments shall be advisory to the city or county.

(e) (1) The legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District shall comply with this section no later than one year from the date specified in Section 65588 for the next revision of its housing element that occurs after January 1, 2004.

(2) The legislative bodies of all other cities and counties shall comply with this section no later than one year from the date specified in Section 65588 for the next revision of its housing element that occurs after January 1, 2006.

SEC. 2. Nothing in this act shall be interpreted to expand the application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the existing authorities of the affected local governments, or any air quality management district or air pollution control district.

~~SEC. 2.~~

SEC. 3. The Legislature finds and declares that Sections 65104 and 66014 of the Government Code provide local agencies with authority to levy fees sufficient to pay for the program or level of service mandated by this act.

~~SEC. 3.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O